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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1968

No. 597

MISSISSIPPI POWER COMPANY and MISSISSIPPI POWER & LIGHT COMPANY, *Petitioners,*

vs.

SOUTH MISSISSIPPI ELECTRIC POWER ASSOCIATION, *Respondent*

NO. 45,065 IN THE SUPREME COURT OF MISSISSIPPI

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF MISSISSIPPI

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INDEX

	Page
I. Introductory	1
II. Opinions and Judgments Rendered Below	2
III. Grounds on Which Jurisdiction of This Court Is Invoked	2
IV. Question Presented for Review	3
V. Constitutional Provisions and Statutes Involved	3
VI. Statement of The Case	4
VII. Reason Why Writ of Certiorari Should Be Granted	9
Certificate	18

Table of Cases:

Republic Pictures Corp. v. *Kappler,* 151 F. 2d 543, 162 A.L.R. 228, affirmed 66 S.Ct. 523, 327 U.S. 757, 90 L.Ed. 991, rehearing denied 66 S.Ct. 804, 327 U.S. 817, 90 L.Ed. 1040	10
Swick v. *Glenn L. Martin Co.,* 68 F. Supp. 863, affirmed 160 F. 2d 483, certiorari denied 68 S. Ct. 85, 332 U.S. 772, 92 L.Ed. 357	10
Interstate Commerce Commission v. *Louisville & N. R. Co.,* 227 U.S. 88, 33 S.Ct. 185, 57 L.Ed. 431	10
Republic National Bank v. *Crippen,* U.S.C.A. 5th, 224 F. 2d 565	11
L. B. Wilson, Inc. v. *Federal Communications Commission,* U.S.C.A. D.C., 170 F. 2d 793	11
Railroad Commission of California v. *Pacific Gas and Electric Company,* 302 U.S. 388, 82 L. Ed. 319	11
Morgan v. *United States,* 298 U.S. 468, 80 L. Ed. 1288	12-13
Morgan v. *United States,* 304 U.S. 1, 82 L. Ed. 1129	13
Georgia Railway and Electric Co. v. *Decatur,* 295 U.S. 164, 79 L. Ed. 1365	15, 16
Reilly v. *Pinkus,* 338 U.S. 269, 94 L. Ed. 63	16-17
Greene v. *McElroy,* 360 U.S. 474, 3 L. Ed. (2) 1377	17

INDEX OF APPENDICES

	Page
APPENDIX No. 1—Commission order of January 4, 1967	19
APPENDIX No. 2—Final Decree of Chancery Court, dated December 22, 1967	68
APPENDIX No. 3—Opinion of Supreme Court of Mississippi, rendered June 10, 1968	73
APPENDIX No. 4—Judgment of Supreme Court of Mississippi, dated June 10, 1968	83
APPENDIX No. 5—Order of Supreme Court of Mississippi denying rehearing, dated July 8, 1968	85
APPENDIX No. 6—Pertinent sections of the Mississippi Public Utility Act.	86
APPENDIX No. 7—Opinion of Mississippi Supreme Court rendered February 14, 1966	96

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I

Introductory

Come now Mississippi Power Company and Mississippi Power & Light Company, Petitioners, and pray that a writ of certiorari issue to review the judgment of the Supreme Court of the State of Mississippi made and entered in the above entitled cause on June 10, 1968, and the order of the Supreme Court of the State of Mississippi denying petitions for rehearing, entered on July 8, 1968, wherein the Supreme Court of Mississippi affirmed and reinstated an order of the Mississippi Public Service Commission (sometimes hereinafter referred to as "Commission") granting to the Respondent an amended certif-

icate of public convenience and necessity under the provisions of Chapter 372, Laws of Mississippi of 1956 (being Sections 7716-01 through 7716-38, Mississippi Code of 1942 Recompiled), for the construction and operation of a steam electric generating plant and transmission system to be located in the southeastern portion of the State of Mississippi. The Supreme Court of Mississippi thereby reversed a judgment of the Chancery Court of Hinds County, Mississippi, First Judicial District, an intermediate appellate court with respect to Commission orders, which had reversed such Commission order.

II

Opinions and Judgments Rendered Below

A. A copy of the order of the Commission dated January 5, 1967 (to which is exhibited the Commission's earlier order dated March 7, 1963) is appended hereto as Appendix No. 1.

B. Copy of the final decree of the Chancery Court of Hinds County, Mississippi, First Judicial District (dated December 22, 1967) is appended hereto as Appendix No. 2.

C. Copies of the opinion and judgment of the Supreme Court of Mississippii rendered on June 10, 1968 are appended hereto as Appendices Nos. 3 and 4. The opinion is now reported in 211 So. (2d) 827.

D. A copy of the order of the Supreme Court of Mississippi, dated July 8, 1968, denying petition for rehearing is appended hereto as Appendix No. 5.

III

Grounds on Which Jurisdiction of this Court is Invoked

A. The judgment sought to be reviewed was rendered by the Supreme Court of Mississippi on June 10, 1968. Such

judgment affirmed and reinstated an order of the Commission dated January 4, 1967.

B. Petition for rehearing was denied by the Supreme Court of Mississippi on July 8, 1968.

C. Jurisdiction is believed to be conferred on this Court by Title 28, U.S.C.A., Section 1257 (3).

IV

Question Presented for Review

Whether the Mississippi Public Service Commission has deprived Petitioners of their property without due process of law and has denied Petitioners the equal protection of the laws by said Commission's refusal to receive and consider evidence offered by Petitioners, thereby denying to Petitioners a full and fair hearing in proceedings before said Commission incident to the issuance of its order of January 4, 1967, Appendix No. 1 hereto, all in violation of the Fourteenth Amendment to the Constitution of the United States.

V

Constitutional Provisions and Statutes Involved

A. Amendment XIV, Section 1, to the Constitution of the United States, is as follows:

> "Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges of immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

B. Chapter 372, Laws of Mississippi of 1956 (appearing as Sections 7716-01 through 7716-38, inclusive, of the Mississippi Code of 1942, Recompiled), and particularly Sections 7716-01, 7716-04, 7716-05, 7716-14, 7716-23, 7716-24, 7716-25, and 7716-26 thereof. Because of the length of the referenced statute sections, these sections are set forth as Appendix No. 6 hereto.

VI

Statement of the Case

In 1963, the Commission issued, after extended hearings, an order pursuant to Section 7716-05(c), Mississippi Code of 1942, Recompiled, granting to Respondent a certificate of public convenience and necessity authorizing it to construct and operate a steam electric generating station (consisting of two 22,500 kilowatt steam turbines and one 20,500 kilowatt gas turbine) and 390 miles of 69 KV transmission lines for the purpose of supplying certain electric requirements of four R.E.A. financed electric distributing co-operatives in southeast Mississippi, such requirements being then, and now, supplied by Petitioners, who are investor-owned public utilities engaged in the generation, transmission, and distribution of electric power in Mississippi. The 1963 order was appealed by Petitioners, and was, on February 14, 1966 affirmed by the Supreme Court of Mississippi in Mississippi Power Company, et al, v. South Mississippi Electric Power Association, 254 Miss. 754; 183 So. (2d) 163. A copy of that opinion is appended hereto as Appendix No. 7. A petition to this Court for certiorari with respect to that decision was denied October 10, 1966, 385 U.S. 823, 17 L. Ed. (2d) 60.

Meanwhile, on July 20, 1965, while the appeal of the 1963 order was pending, Respondent filed with the Commission a petition to amend the 1963 certificate to authorize the construction and operation of a different system in lieu of that specified in the 1963 certificate. No

construction has been undertaken pursuant to the original certificate. The 1965 petition sought authority to construct and operate two generating plants (one a 150,000 kilowatt plant consisting of three 50,000 kilowatt steam turbines, and the other at a remote location consisting of one 14,000 kilowatt gas turbine) and 800 miles of transmission line (the original certificate authorized 390 miles) some of which were to be at 161 KV instead of 69 KV. Petitioners thereupon suggested to the Supreme Court of Mississippi that the issue of original 1963 certificate had become moot. The Supreme Court of Mississippi, in refusing such suggestion, said, concerning the new petition to amend:

> "The issue raised by the plea in bar was not before the commission at the time of the hearing. Without deciding that the same is properly before us, we hold that the conditions existing in 1965 were not necessarily the conditions existing in 1960, the year in which the forecasts were made as to the electrical needs, and for this reason the plea in bar should be overruled and this appeal restricted to the economic conditions existing at the time the case was before the commission. *The issues raised by the amended application are issues to be determined by the commission when properly presented to it.*" (Emphasis supplied)

Hearings by the Commission on the petition of Respondent to amend the 1963 certificate were held in September and October, 1966. To the petition to amend, Petitioners had filed separate protests and objections denying that public convenience and necessity existed for that sought by the petition to amend, alleging that Petitioners were then providing, and were ready, willing, able, and had offered to continue to provide, to the distributing co-operatives all their electric requirements at rates greatly below those proposed by Respondent; that service from Respond-

ent (whose system would be isolated) would be inferior to that from Petitioners (whose systems are parts of large interconnected resources); that unnecessary and uneconomic duplication of facilities would result from the project; that existing certificate rights of Petitioners would be violated and their constitutional rights thereby impaired; and that the public interest would be adversely affected by the governmentally subsidized interest rate of 2% at which Respondent would finance the project. Rates at which Respondent would serve the purchasing co-operatives are exempt from regulation by both the Commission (See Sec. 7716-01-E, Mississippi Code of 1942, Recompiled, Appendix 6 hereto), and the Federal Power Commission (Respondent's operations being wholly intrastate), while service from Petitioners (being interstate) is regulated by the Federal Power Commission under the Federal Power Act. Rates charged by the purchasing co-operatives to their members are not subject to regulation by the Commission except in the case of the relatively few members who are served inside corporate limits of municipalities. (See Sec. 7716-04, Mississippi Code of 1942, Recompiled, Appendix 7 hereto.)

At the hearing, Respondent was permitted to introduce, and the Commission received, all the evidence it offered, including testimony with respect to the cost of the project and economics of operation. (Vol. VII, p. 519; Vol. X, pp. 814-19; Vol. XI, pp. 955-966; Vol. XI, p. 994; Vol. XI, pp. 1001-1019).

The Commission refused to receive in evidence or to consider evidence offered by Petitioners, the substance of which is in the record by way of proffer and tendered exhibits as follows:

1. That the service which Respondent sought to render to the purchasing co-operatives is now being rendered

to these distributing co-operatives by the Petitioners. (Vol. XV, pp. 1477-79; Exhibit PA-85, Vol. XV, pp. 1481-1484; Vol. XIV, pp. 1275-1350, Exhibits PA-62 through PA-67.)

2. That the costs to the distributing co-operatives of purchasing electric service from Respondent will be far greater than the cost of continued purchase of this service from Petitioners. (Vol. XV, pp. 1496-99; Vol. XV, pp. 1510-18, Exhibit PA-89; Vol. XV, p. 378, Exhibit PA-73.)
3. Evidence showing the size and capabilities of Petitioners' generating plants and transmission systems, including additions thereto made after the hearing of the original petition in 1962, the interconnections of Petitioners' electric systems with other systems, all relevant and necessary to show the ability of the Petitioners to supply the service which Respondent seeks to replace. (Vol. XV, pp. 1526-35; Vol. XVI, pp. 1556-60; Exhibits PA-93 and PA-94, Vol. XVI, pp. 1565-67, and p. 1572; Vol. XVI, pp. 1545-46; Vol. XVI, pp. 1594-5; Vol. XIV, pp. 1352-1368, and Exhibits PA-68 through PA-70.)
4. Evidence offered by Petitioners that they are ready, willing, able and have offered to continue to supply the electric requirements of the distributing co-operatives. (Vol. XV, pp. 1518-19; Vol. XVI, pp. 1542-3; Vol. XIV, pp. 1275-1350.)
5. Evidence offered by Petitioners that the estimates of probable operating expense offered by Respondent and received by the Commission were not accurate. (Vol. XVI, p. 1653; Vol. XVI, pp. 1657 et seq; Vol. XVI, pp. 1661-5.)
6. Evidence offered by Petitioner of the loss to State and Federal Treasuries from the proposed project because of the tax-exempt status of Respondent and

the federally subsidized interest rate of 2% under which R.E.A. would finance the project. (Vol. XVII, pp. 1697-8; Vol. XVII, pp. 1700-05.)

7. Refusal of the Commission to permit Petitioners to cross-examine Respondents' witnesses with respect to the validity of load forecasts, (Vol. VI, pp. 422-42); and with respect to service points presently served by Petitioners. (Vol. IX, pp. 742-5.)

During the hearing, Petitioners asserted their right to a full hearing, protested the above rulings of the Commission, and further asserted in the record that such rulings constituted a denial of their rights under the Fourteenth Amendment to the Federal Constitution. (Vol. V, p. 310-11; Vol. VI, p. 355; Vol. IX, p. 744-5, Vol. XVI, p. 1626.)

The Commission issued its order on January 4, 1967, granting Respondent an amended certificate in accordance with its petition therefor in all respects. Petitioners filed with the State Commission, in accordance with the statute, a petition for rehearing in which, among other contentions, they asserted that the State Commission, by its evidentiary rulings, had deprived Petitioners of their constitutional rights under the Fourteenth Amendment to the Federal Constitution and had denied to them their constitutional rights to a full and fair hearing. (Vol. XVII, pp. 1801-13 and XVII, pp. 1814-26.) By refusal to act within the period prescribed by statute, the Commission denied the petition for rehearing. (See Sec. 7716-25, Mississippi Code of 1942, Recompiled, Appendix 6 hereto.) Thereupon, Petitioners appealed to the Chancery Court of Hinds County, Mississippi, First Judicial District, the intermediate appellate court for appeals from Commission orders. In their assignments of error filed in such court, the Petitioners again asserted that the Commission evidentiary rulings at the hearing deprived them of a fair and full hearing in violation of their rights under

the Fourteenth Amendment. (Vol. XVIII, pp. 1882-91, and Vol. XVIII, pp. 1892-98.) The Chancery Court rendered its opinion that the Commission's order should be reversed, and on December 22, 1967 entered its final decree reversing the Commission's order. (See Appendix No. 2 hereto.) Respondent thereupon appealed to the Supreme Court of Mississippi, which, on June 10, 1968, renderd its opinion reserving the decree of the Chancery Court and reinstating the Commission's order of January 4, 1967. Within the prescribed time, Petitioners filed in such court petitions for rehearing in which they again asserted the deprivation of their constitutional rights by the Commission to a fair hearing. The Supreme Court of Mississippi, on July 8, 1968, denied the petitions without opinion and without responding to the constitutional assertions advanced by Petitioners in their petitions for rehearing.

It is the position of Petitioners that the actions of the Commission and the Supreme Court of Mississippi have denied Petitioners the equal protection of the laws, and have deprived Petitioners of substantial and valuable rights, which have been timely and repeatedly asserted throughout the entire proceeding, in violation of the Fourteenth Amendment, and that such deprivation presents to this Court a substantial constitutional question which this Court should review by granting the Writ of Certiorari herein sought.

VII

Reason Why Writ of Certiorari Should be Granted

The Fourteenth Amendment requires that administrative agencies of a state must, in order to comply therewith, afford to every person who is properly before such agency in any proceeding a full, fair and complete hearing with respect to the matter under consideration. Failure of an

administrative agency so to do is a denial of constitutional rights guaranteed by the Constitution. Petitioners were denied before the Commission such a hearing. This Court has frequently stated what is necessary to meet the constitutional requirements of a fair hearing, both with respect to Federal administrative agencies under the Fifth Amendment and with respect to state administrative agencies under the Fourteenth Amendment. The requirements are identical under each.

The Commission heard and considered evidence offered by Respondent tending to establish the alleged fact that public convenience and necessity required the facilities authorized by the amended certificate. The Commission refused to hear or consider Petitioners' evidence tending to establish that public convenience and necessity neither required nor permitted construction of such facilities. Petitioners were thereby denied the equal protection of the laws. Equal protection of the laws implies that all litigants similarly situated may apply to the Courts for relief under like conditions and without discrimination. *Republic Pictures Corp.* v. *Kappler,* 151 F. 2d 543, 162 A.L.R. 228, affirmed 66 S.Ct. 523, 327 U.S. 757, 90 L.Ed. 991, rehearing denied 66 S.Ct. 804, 327 U.S. 817, 90 L.Ed. 1040; *Swick* v. *Glenn L. Martin Co.,* 68 F. Supp. 863, affirmed 160 F. 2d 483, certiorari denied 68 S.Ct. 85, 332 U.S. 772, 92 L.Ed. 357.

In *Interstate Commerce Commission* v. *Louisville & N. R. Co.,* 227 U.S. 88, 33 S.Ct. 185, 57 L.Ed. 431, the Court said:

> "But the statute gave the right to a full hearing, and that conferred the privilege of introducing testimony, and at the same time imposed the duty of deciding in accordance with the facts proved. A finding without evidence is arbitrary and baseless. . . . Such authority, however beneficiently exercised in one case,

could be injuriously exerted in another, is inconsistent with rational justice, and comes under the Constitution's condemnation of all arbitrary exercise of Power." (57 L.Ed. p. 433)

* * * * *

"All parties must be fully apprised of the evidence submitted or to be considered, and must be given opportunity to cross-examine witnesses, to inspect documents, and to offer evidence in explanation or rebuttal. In no other way can a party maintain its rights or make its defense." (57 L.Ed. p. 434)

In *Republic National Bank* v. *Crippen,* U.S.C.A. 5th, 224 F. 2d 565, the Court said:

"The right to be heard on their claims was a constitutional right and the denial of that right to them was the denial of due process which is never harmless error." (224 F. 2d p. 566)

In *L. B. Wilson, Inc.* v. *Federal Communications Commission,* U.S.C.A. D.C., 170 F. 2d 793, at page 807, the court said:

"'*Qui aliquid statuerit parte inaudita altera, aequum licet dixerit, haud aequum fecerit.* He who decides anything, one party being unheard, though he should decide right, does wrong. 6 Co. 52; 4 Bla. Com. 483.' 2 Bouv. Law Dict., Rawle's Third Revision, 1914, p. 2157."

In *Railroad Commission of California* v. *Pacific Gas and Electric Company,* 302 U.S. 388, 82 L.Ed. 319, this Court held that the state commission had afforded the company a fair and full hearing, but it also stated what sort of hearing was afforded. The Court said:

"Respondent states that it was denied a proper hearing, but the record shows that the Commission held extended hearings, *at which the evidence offered by respondent was received* and its arguments presented. . . ." (Emphasis Supplied)

Here the Commission neither received nor considered the evidence offered by Petitioners, and the Court below, by its opinion, condoned such action. In the cited California case, this Court further said:

"The right to a fair and open hearing is one of the rudiments of fair play assured to every litigant by the Federal Constitution as a minimal requirement. Ohio Bell Teleph. Co. v. Public Utilities Commission, 301 U.S. 292, 304, 305, 81 L.Ed. 1093, 1101, 1102, 57 S.Ct. 724. There must be due notice and an opportunity to be heard, the procedure must be consistent with the essentials of a fair trial, and the Commission must act upon evidence and not arbitrarily. Interstate Commerce Commission v. Louisville & N. R. Co., 227 U.S. 88, 91, 57 L.Ed. 431, 433, 33 S.Ct. 185; St. Joseph Stock Yards Co. v. United States, 298 U.S. 38, 51, 73, 80 L.Ed. 1033, 1041, 1052, 56 S.Ct. 720; Morgan v. United States, 298 U.S. 468, 480, 481, 80 L.Ed. 1288, 1294, 1295, 56 S. Ct. 906; Ohio Bell Teleph. Co. v. Public Utilities Commission, 301 U.S. 292, 81 L.Ed. 1093, 57 S.Ct. 724, supra. *As we have seen, the respondent was heard, the Commission received the testimony of respondent's witnesses, its exhibits and arguments.* There is nothing whatever to show that the hearing was not conducted fairly." (Emphasis supplied)

Here the Commission, as herein shown, did not hear the Petitioners, nor did it receive the testimony of Petitioners' witnesses or their exhibits.

In two cases decided by this Court, each styled *Morgan*

v. *United States* (the first in 298 U.S. 468, 80 L.Ed. 1288, herein designated "Morgan One", and the second in 304 U.S. 1, 82 L.Ed. 1129, herein designated "Morgan Two") the requirements for a fair hearing under the Constitution were again considered. The issue was the validity of an order of the Secretary of Agriculture fixing maximum rates to be charged by market agencies at the Kansas City Stockyards. Suit was brought to enjoin enforcement of the order, the complaint alleging that Plaintiffs had not been afforded the hearing which the statute required.

In Morgan One, the district court had struck such allegation from the complaint. This Court reversed Morgan One and said:

> "Our conclusion is that the District Court erred in striking out the allegations of [Paragraph] IV of the bill of complaint with respect to the Secretary's action. The defendants should be required to answer these allegations and the question whether plaintiffs had a proper hearing should be determined." 298 U.S. p. 482, 80 L.Ed. p. 1296.

Thus, Petitioners are entitled to a determination of whether they have been afforded a full and fair hearing. Such determination the Supreme Court of Mississippi declined to consider or to make.

In Morgan One this Court also established criteria for a full and fair hearing. It said:

> "There must be a full hearing. There must be evidence adequate to support pertinent and necessary findings of fact. Nothing can be treated as evidence which is not introduced as such. United States v. Abilene & S. R. Co. 265 U.S. 274, 68 L.Ed. 1016, 44 S.Ct. 565, supra. Facts and circumstances which ought to be considered must not be excluded."

• • • • •

"A proceeding of this sort requiring the taking and weighing of evidence, determinations of fact based upon the consideration of the evidence, and the making of an order supported by such findings, has a quality resembling that of a judicial proceeding. Hence it is frequently described as a proceeding of a quasi judicial character. The requirement of a 'full hearing' has obvious reference to the tradition of judicial proceedings in which evidence is received and weighed by the trier of the facts. The 'hearing' is designed to afford the safeguard that the one who decides shall be bound in good conscience to consider the evidence, to be guided by that alone, and to reach his conclusion uninfluenced by extraneous considerations which in other fields might have play in determining purely executive action. The 'hearing' is the hearing of evidence and argument. If the one who determines the facts which underlie the order has not considered evidence or argument, it is manifest that the hearing has not been given." 298 U.S. 480-81, 80 L.Ed. 1294-5.

As a result of this Court's decision in Morgan One, the case was remanded and on further testimony in the lower court as to the type of hearing the Secretary afforded, the lower court held that a fair hearing was held. On appeal of that decision, this Court, in Morgan Two again reversed holding that the proceeding before the Secretary did not constitute a full and fair hearing. This Court said (304 U.S. 18-19, 82 L.Ed. 1132-3):

"But a 'full hearing'—a fair and open hearing—requires more than that. The right to a hearing embraces not only the right to present evidence but also a reasonable opportunity to know the claims of the opposing party *and to meet them.* The right to submit argu-

ment implies that opportunity; otherwise the right may be but a barren one." (Emphasis supplied)

The Court below justified the action of the Commission in excluding Petitioners' evidence and in denying the right of cross-examination on the issues of public convenience and necessity upon the ground that such evidence was immaterial to the issue before the Commission; that the issue before the Commission was only "whether public convenience and necessity required the construction of the enlarged facilities requested in the amended application rather than the facilities authorized in its order of March 7, 1963." Admittedly, the facilities authorized by the 1963 order had not been built at the time of the hearing on the petition to amend, nor had their construction been commenced. The project sought by the petition to amend was one in lieu of the project authorized by the original 1963 order. Therefore, whether public convenience and necessity required the enlarged project in lieu of the original project should have been determined upon the basis of the facilities, capabilities and willingness of Petitioners to provide the service, and upon comparative economic terms under which such service was available. But Petitioners were not permitted to introduced evidence upon any of these issues.

Denial of constitutional rights of Petitioners to be heard cannot be finessed by either the Commission or the Court below through a mere assertion that the offered evidence was irrelevant to the issues as they were sought to be defined. This Court has specifically so held. In *Georgia Railway and Electric Co.* v. *Decatur,* 295 U.S. 164, 79 L.Ed. 1365, there was involved an assessment of special taxes for street paving of a street on which the Company had street car tracks. The Company refused to pay the tax on the ground that it was not benefitted by the project, and suit was brought by the City of Decatur for recovery thereof.

The Court refused to receive evidence offered by the Company on the issue of benefits, and found against the Company. On appeal to this Court, the judgment was reversed, this Court saying (295 U.S. 171, 79 L.Ed. 1369-70):

> "No question is raised as to the competency of the proof which was offered, and evidently there is none. The ruling was simply that it was immaterial. But the existence of benefits resulting from the improvement was material and was deemed so—else why require it, or why create an affirmative presumption in respect of it? Certainly, competent proof tending to overcome a rebuttable presumption of material fact cannot be immaterial; and the refusal of a court to receive or consider any proof whatever on the subject amounts to a denial of a hearing on that issue, in contravention of the due process of law clause of the Constitution."

The holding of the Supreme Court of Mississippi that the evidence rejected was immaterial to the issues is in direct conflict with its holding in its first opinion when it said: "The issues raised by the amended application are issues to be determined by the commission when properly presented to it". (See Appendix No. 7) Petitioners were denied the right and opportunity to do that which the Supreme Court of Mississippi said in its first opinion must be done. What the Court did in the instant opinion, Appendix 4 hereto, falls within the condemnation of this Court in *Georgia Railway and Electric Co.* v. *Decatur, supra.*

Refusal of the Commission to permit cross-examination of Respondents' witnesses, an action approved by the Court below, is likewise a denial of Petitioners' constitutional rights to a full and fair hearing. *Reilly* v. *Pinkus,* 338 U.S.

269, 94 L.Ed. 63; *Greene* v. *McElroy*, 360 U.S. 474, 3 L.Ed. (2d) 1377.

WHEREFORE, Petitioners respectfully submit that this Court should issue a writ of certiorari in this cause; that the federal question involved is substantial; and that upon review by this Court the decision of the Supreme Court of Mississippi and the order of the Mississippi Public Service Commission should be reversed and the cause remanded for a full, fair and complete hearing before such Commission.

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CERTIFICATE OF SERVICE

I, James S. Eaton of the firm of Eaton, Cottrell, Galloway & Lang, of Counsel for Petitioner, Mississippi Power Company, depose and say that on the — day of ——, 1968 I served a copy of the foregoing petition for writ of certiorari on T. Harvey Hedgepeth, Esquire, Counsel for South Mississippi Electric Power Association, by mailing the same postage prepaid to his address at the Deposit Guaranty Bank Building, Jackson, Mississippi, and upon John K. Keyes, Esquire, Attorney of record for Dixie Electric Power Association, Singing River Electric Power Association, Pearl River Valley Electric Power Association, and Southern Pine Electric Power Association, at his office in Collins, Mississippi, and upon Bennett C. Smith, Esquire, Assistant Attorney General, State Office Building, Jackson, Mississippi, Counsel for the Public Service Commission of Mississippi.

JAMES S. EATON

Sworn to and subscribed before me on this the —— day of ——, 1968.

Notary Public.

My commission expires: